

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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DUSHON FOSTER,

Petitioner,

- against -

UNITED STATES OF AMERICA,

Defendant.

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NAOMI REICE BUCHWALD
UNITED STATES DISTRICT JUDGE

O R D E R

16 Civ. 4529 (NRB)

WHEREAS on June 14, 2016 petitioner filed a motion in the United States Court of Appeals for the Second Circuit for an order authorizing this Court to consider a successive or second motion to vacate, set aside, or correct his sentence pursuant to 28 U.S.C. § 2255(h)(2); and

WHEREAS on June 15, 2016, petitioner filed in this Court a successive motion to vacate, set aside, or correct his sentence pursuant to 28 U.S.C. § 2255, see ECF No. 1; and

WHEREAS as of the date of this Order, petitioner's motion pursuant to 28 U.S.C. § 2255(h)(2) has not been authorized; and

WHEREAS absent the requisite authorization from the Court of Appeals, this Court lacks jurisdiction to resolve the motion that remains pending in this action; and

WHEREAS on or around February 24, 2017, petitioner was

released from the custody of the Bureau of Prisons; it is hereby

ORDERED that the above-captioned action be, and hereby is, dismissed without prejudice to restoring the action should the Court of Appeals authorize petitioner to proceed in this matter.

The Clerk of Court is respectfully directed to close this case.

SO ORDERED.

DATED: New York, New York
April 14, 2020



NAOMI REICE BUCHWALD
UNITED STATES DISTRICT JUDGE